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Changes to Bahrain's investment framework

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There have been a number of developments and government-driven initiatives in the Kingdom of Bahrain over the last year. The banking and insurance sectors have undergone reform and Bahrain has become the first country in the Middle East to enact a trusts law.

The progress of the country's institutional reform and regulation has enhanced its position as the financial leader in the region, spurring growth in the financial sector. There is no doubt that the Kingdom has evolved into a key player in the world's banking and financial services market.

New legislation

The Central Bank of Bahrain and Financial Institutions Law 2006 (CBB Law), enacted in September 2006, established the Central Bank of Bahrain as the successor to the highly respected and effective financial regulator, the Bahrain Monetary Agency.

The CBB Law goes beyond reinforcing the regulator's independence and powers: it implements a system of rulebooks covering all aspects of the banking and finance industries, including conventional banks, Islamic banks, insurance and investment firms, and capital markets.

The new rules on collective investments have highlighted Bahrain's role as the Middle East's financial centre, especially in respect of funds. The regulations are specifically geared to expert funds and other alternative asset classes, such as hedge funds.

Bahrain's trusts law was also enacted last year, providing a sophisticated legal framework for creating and administering financial trusts. In a region which is said to possess the world's highest concentration of high net worth individuals, the enactment of a trusts law takes on a

new significance considering that trusts have traditionally been used as vehicles of wealth preservation.

The US-Bahrain Free Trade Agreement

On August 1 2006, the Free Trade Agreement between Bahrain and the US came into force. The agreement means that the US and Bahrain have committed to pursuing a single-minded and reciprocal approach to trade and investment.

The underlying aims of the agreement are to promote trade and investment between the US and Bahrain, to encourage the mutual exchange of expertise and to boost employment.

By signing a Free Trade Agreement with Bahrain, the US government is making it clear to potential investors and traders that it is a country in which they can safely invest and do business.

Real estate

The trend for foreign ownership of real estate was boosted by new legislation enabling foreigners to own property in certain residential buildings which have been classified as zones A, B and C. The law was also extended to enable foreign ownership in the many new tourist developments sprouting up throughout Bahrain.

The Kingdom's skyline has witnessed a dramatic change over the last year. The Bahrain Financial Harbour opened officially in early May 2007, with other projects such as the World Trade Centre scheduled to open later in the year.

E-government

Two years ago, the government signed an agreement with Microsoft to advance the growth of Bahrain as an "intelligent kingdom". This was part of a greater e-government initiative which has taken on a new dimension this year.

The Government Data Network, which connects all government departments, and an e-voting project are now up and running, and an unprecedented number of citizens are using

these services. Underpinning this trend is the Central Informatics Organisation's new training programme which aims at improving the computer literacy of the country's civil servants.

The network recently enabled an online transaction, the first of its kind, between the government and the Bank of Bahrain and Kuwait (BBK), whereby the bank paid the Ministry of Finance its regulation fee directly over the internet. The banking and finance sector as a whole is expected to participate in and benefit from the plethora of e-government services now on offer.

Banking and capital markets

Recommended firms

Tier 1

Baker & McKenzie
Norton Rose

Tier 2

Hatim S Zu'bi & Partners
Trowers & Hamlins

Tier 3

Hassan Radhi & Associates
Qays H Zu'bi

Tier 4

Ahmed Zaki Yamani

Mergers and acquisitions

Recommended firms

Tier 1

Norton Rose
Trowers & Hamlins

Tier 2

Freshfields Bruckhaus Deringer
Hassan Radhi & Associates
Hatim S Zu'bi & Partners
Qays H Zu'bi

Tier 3

Ahmed Zaki Yamani

Project finance

Recommended firms

Tier 1

Freshfields Bruckhaus Deringer
Norton Rose

Tier 2

Baker & McKenzie
Hatim S Zu'bi & Partners

Tier 3

Hassan Radhi & Associates
Qays H Zu'bi

Bahrain, like other smaller Gulf jurisdictions, has managed to avoid the worst of the financial crisis, as one partner explains: "Bahrain has never been a boom and bust place, and that's continued."

Although historically the jurisdiction is a centre for banking in the Gulf it has not been hit as hard as the saturated market in Dubai thanks to the absence of complicated product structures. "There's not great liquidity but just less exposure," says one partner. "Bahrain has always been steady – it has not been a galloping horse like Dubai."

However this is not to say that the country has been unaffected, "In common with the rest of the world there is a slowing down," says one partner. Most firms have found that deal size is reducing and transactions are not moving as quickly. "The deals that have closed have been smaller," says one partner.

In the Islamic finance area firms have also found that volumes have decreased. "There are a number of *sukuks* (Islamic bonds) sitting and waiting to happen," says one partner. "A lot of the assets in Islamic finance went into real estate, and we all know what happened there."

There has also been scepticism about how much the country would benefit from the problems seen in conventional finance. "Rightly or wrongly, Islamic finance is seen as a safer option because Islamic banks are seen as safer," says one partner. "But conventional banks also have Islamic departments and issue products."

For M&A departments work flow has remained steady, although the focus has changed. "Consolidation is increasing in importance," says one partner. "We're seeing a decline in people getting into new joint ventures – a number of internationals are holding back and instead looking to consolidate."

There was also optimism about the coming year: "M&A is stronger than before; there are opportunities for family-held companies which need fresh capital, and that's where Bahrain entities are better placed than their European counterparts," says one partner.

In February 2009 another interesting development was the new law issued by the Central Bank of Bahrain in regard to takeovers. Although the true effect is yet to be seen, one partner says it should "give much more transparency to the market and allow the central bank and the stock exchange a greater role".

A partner says: "What we're finding with the government of Bahrain work is that the project finance sector is active. [There is] no slowdown in Bahrain."

One of the growing areas is work connected to privatisation of the energy sector. As well as outsourcing from the Bahrain oil field, there has also been work arising from the import of gas into the country. Work in infrastructure is also continuing apace: "Infrastructure investment is one area which is looking strong," says one partner.

The legal market itself has remained relatively stable over the last 12 months, with DLA Piper and offshore firm Appleby the only new entrants. However there is encouragement for other firms looking to follow suit, with the government keen to encourage international investment and the legal diversification that goes with it. "They're very keen to

encourage new firms in here," says one partner, adding: "They want more international investment."

Baker & McKenzie

This year Baker McKenzie has maintained its status as one of the most visible international firms in the Bahrain market. The firm works closely with its associated office in Saudi Arabia, and the majority of its transactions are worked out of both offices.

The firm's three-partner banking practice is led by Ian Siddell. "He's very experienced," says one client, adding: "He's a good negotiator, and a consensual negotiator." Another leading figure is Julie Alexander, who is described by one client as "very hard working, with good attention to detail and a very quick turnaround; she can concentrate on the project in hand".

The banking team has acted for a number of leading banks in Bahrain including First Energy Bank, Gulf International Bank and The National Commercial Bank.

The firm's capital markets team, also led by Siddell along with Karim Nassar, was involved in one of the firm's biggest and most complicated deals, acting as transaction counsel for shareholders in Gulf International Bank on its acquisition of \$4.8 billion worth of non-performing assets.

Leading lawyers

Julie Alexander
Ian Siddell

Freshfields Bruckhaus Deringer

Freshfields moves into tier one in the project finance table this year after strong recommendations from the market reflecting its track record in this area. Clients were particularly impressed: "What we received from Freshfields was excellent. They did an extraordinary job; we were extremely pleased," says one.

Since opening in Bahrain in 2007, the focus of the firm's practice has been on project finance, and this decision has paid dividends. Thanks to its position as preferred international counsel for the government, the firm has a role in most of the key project deals in the country. The firm's Middle East banking and projects team was further boosted this year by the movement of partner Charles July from the London office.

This year the team headed by Harnek Shoker advised on a number of infrastructure projects, including the \$2 billion Al Dur project consisting of a power facility and a desalination plant.

A team led by Shoker is also advising the government over a \$300 million waste treatment plant. Other work sees the firm advising on proposals for the development of a nuclear power facility and acting for the National Oil & Gas Authority in relation to offshore oil exploration activities.

Leading lawyers

Joseph Huse
Harnek Shoker

Norton Rose

Norton Rose has a distinguished history in Bahrain – having had an office in the country since 1979 – and is the most established of the international firms in the market. Clients clearly benefit from this, as one says: “I found they were very good. No deals are simple out here and they managed to handle the difficulties of the case quite well.” Another client agrees: “We have engaged them through their local office and they have done a very good job.”

The firm’s Bahrain practice is managed by Dominic Harvey who is also head of the firm’s Middle Eastern banking and project finance practice. This year Harvey’s team advised the Oil & Gas Holding Company on a \$120 million syndicated term facility agreement. The firm also advised Al-Salam Bank on a BD30 million (\$79.6 million) sovereign *murabaha* (deferred sale) transaction.

Norton Rose was also kept busy by a number of projects, including the grant of a SR1.2 billion (\$319 million) Islamic facility for the construction of a steel facility in Jeddah, Saudi Arabia. In Bahrain itself the firm also worked on two key infrastructure projects, advising CNIM on the financing of a waste-to-energy plant, and acting for the Bahrain Ministry of Finance in the privatisation of the country’s sanitation system.

The firm’s corporate finance team is headed by Campbell Steedman who was involved in the acquisition of two Bahrain travel agencies – Al Hidaya Travel and Cleopatra Travel – by Dnata World Travel. The firm also advised on the sale of three foreign exchange companies and advised on shareholder arrangements in regards to the new holding company.

Leading lawyers

Dominic Harvey

Trowers & Hamlins

Trowers & Hamlins has particular strength in the corporate area, with corporate head Dominic O’Neill held in high regard by clients: “I would consider Dominic almost as a part of our team,” says one client. “Lawyers

tend to fall into two categories – blockers and enablers. Dominic is an enabler; he tells us what we can do.”

Alongside its continuing work for Delta Partners, the team is currently advising Bahrain Petroleum Company on the privatisation of its retail division. The deal involves the re-allocation of a number of retail sites and the establishment of a regulatory regime with an intended goal of a public offering.

Alongside this, a team led by Dominic O’Neill advised Sakhir City Development Holding Company in relation to a \$3.5 billion business and entertainment park.

The firm has also advised an Asian investment company on the acquisition of Bahrain Telecommunications (Batelco), and advised Diyar Al Muharraq on a joint venture for the development of a mixed-use real-estate project near Muharraq.

The banking and project finance teams are led by Neil Downes, who has acted in most of the firm’s key transactions over the last year. The firm is heavily involved in CIUs (capital investment undertakings) and fund establishment, having worked for the Central Bank of Bahrain on a €265 million *shariah*-compliant exempt CIU and advised Global Investment House on the establishment of Global Private Equity Fund V.

One of the firm’s biggest projects saw it act as lead counsel to the Bahrain Airport Company – the entity set up to run the country’s international airport.

Leading lawyers

Dominic O’Neill